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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,387	12/17/2001	Albert Philip Van Duren	AUGA22000007	4111

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EXAMINER
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VRETTAKOS, PETER J

ART UNIT	PAPER NUMBER
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3739

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DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

08

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/024,387	VAN DUREN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Peter J Vrettakos	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 77-89 and 91-99 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 77-89 and 91-99 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

**The instant action is non-final. New art/rejections are presented below.**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 77-78 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelton ('611).

#### Independent claim 77

Shelton discloses a combination for controlling airflow between an air hose (22 or 52) and an inflatable thermal (intended use language) device (96), comprising:

at least one inlet port (38) in the inflatable thermal device for being coupled with an end of the air hose (22 or 52); and

a mechanism (28; col. 2:60-65) disposed in the air hose near the end (26; see figures 1-3) for opening to enable airflow out of the end when the end is coupled with the inlet port.

#### Dependent claims

Claim 78: Shelton discloses a mechanism (28) that cooperates with the inlet port (38) independently of the rotational alignment of the end in the inlet port.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 79-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton.

The optimum relative diameters of the end (26) and the mechanism (28) would have been determined through routine experimentation.

Shelton discloses numerous types of one-way valves (col. 2:60-65) including those with flaps (46) thereby making obvious the Applicant's disclosure in claims 80-83. The motivation to use the different types of valves would be to include several choices of valve types of which each have distinct advantages and disadvantages.

3. Claims 84-89 and 91-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Kaufmann et al. ('568).

Shelton discloses one way valves (28), which make obvious a method including coupling the one end (28) with an inlet port (38); opening the mechanism/valve (28) in response to pressurized airflow, and operating the inflatable device in response to airflow.

*However, Shelton does not expressly disclose a thermal device.*

Kaufmann discloses an analogous inflation system, which involves a thermal device (10).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Shelton in view of Kaufmann by using the Shelton method to inflate the Kaufmann device. The motivation to do so would be to introduce a medical application to the Shelton method.

### ***Response to Arguments***

Applicant's arguments with respect to claims 77-89 and 91-94 have been considered but are moot in view of the new ground(s) of rejection.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Le ('981).

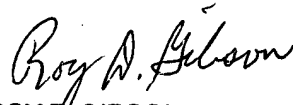
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Vrettakos whose telephone number is 703 605 0215. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C Dvorak can be reached on 703 308 0994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos  
March 10, 2004  


  
ROY D. GIBSON  
PRIMARY EXAMINER